



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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October 21, 2016

Longview Fibre Paper and Packaging, Inc.
d.b.a. KapStone Kraft Paper Corporation
ATTN: Mr. Roberto A. Artiga
P.O. Box 639
Longview, WA 98632

RE: Water Quality Certification Order No. **13791** for Corps Public Notice No. **NWS-2014-451**, KapStone Maintenance Dredging, Cowlitz County, Washington

Dear Mr. Artiga:

On July 7, 2016, Longview Fibre Paper and Packaging, Inc. d.b.a. KapStone Kraft Paper Corporation submitted a Joint Aquatic Resources Permit Application (JARPA) to the Department of Ecology (Ecology) for a Section 401 Water Quality Certification (401 Certification) under the federal Clean Water Act for the KapStone Maintenance Dredging Project, Longview, Cowlitz County, Washington.

The proposed project includes dredging of approximately 180,000 cubic yard from the Columbia River access Channel (also known as the Old Cowlitz Channel) between River Miles 67.5 and 68.0. The dredged material will be disposed of within flowlane of the Columbia River. Channel depths will be maintained to a depth of minus 12' Columbia River Datum through maintenance dredging for up to ten years.

On behalf of the State of Washington, Ecology certifies that the work described in the JARPA and the public notice complies with applicable provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act, as amended and applicable state laws. This certification is subject to the conditions contained in the enclosed Order.

If you have any questions, please contact Lori Kingsbury at (360) 407-6926. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

Brenden McFarland
Shorelands and Environmental Assistance Program

Order No. 13791 Corps No. NWS-2014-451
KapStone Maintenance Dredging
October 21, 2016
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Enclosure

By certified mail: 91 7199 9991 7037 0278 3102

cc: Danette Guy, Corps of Engineers, VFO
Andrew Jansky, Flowing Solutions
Ted Sprague, Cowlitz Economic Development Council
Lisa Hendriksen, Port of Longview
Julie Rinard and Bill Marcum, Kelso/Longview Chamber of Commerce
Senator Dean Takko, Representative Brian Blake, Representative JD Rossetti; 19th
District Washington State Legislature

e-cc: ECY RE FEDPERMITS
Loree Randall, HQ-SEA
Laura Inouye, HQ-SEA
Rebecca Rothwell, SWRO-SEA
Brian Hill, WA DNR
Steve West, WDFW

IN THE MATTER OF GRANTING A) ORDER No. 13791
WATER QUALITY) Corps Reference No. NWS-2014-451
CERTIFICATION TO) KapStone Maintenance Dredging in Longview,
Longview Fibre Paper and Packaging,) Columbia River, Cowlitz County, Washington
Inc. d.b.a. KapStone Kraft Paper)
Corporation)
in accordance with 33 U.S.C. 1341)
(FWPCA § 401), RCW 90.48.120, RCW
90.48.260 and Chapter 173-201A WAC

TO: Longview Fibre Paper and Packaging, Inc.
D.b.a. KapStone Kraft Paper Corporation
P.O. Box 639
Longview, WA 98632

On July 7, 2016, Longview Fibre Paper and Packaging, Inc. d.b.a. KapStone Kraft Paper Corporation submitted a Joint Aquatic Resources Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification. A joint public notice regarding the request was distributed by the Army Corps of Engineers (Corps) for the above-referenced project pursuant to the provisions of Chapter 173-225 WAC on September 15, 2016.

The Applicant proposes to dredge approximately 180,000 cubic yards of sediment over an area 4400 feet long by 250 feet wide to a depth of minus 12' Columbia River Datum (CRD) from the Columbia River access channel (also known as the Old Cowlitz Channel) between River Mile (RM) 67.5 – 68.0. Dredging will also be done around the existing outfall located at the Oil Dock. Initial dredging will take up to three years. Channel depths will be maintained thereafter by maintenance dredging for up to ten (10) years.

Dredging will be completed with the use of a crane barge with a clamshell bucket. Material would be loaded onto another barge and offloaded with a clamshell bucket or a split hull (bottom-dump) barge may also be used. Dredge material has been approved for placement in the Columbia River flow lane disposal area.

The purpose of the project is to maintain adequate depths for berthing and navigation of the deeper draft vessels.

The Company is located at 300 Fibre Way, Longview, Cowlitz County, Washington 98632; SE Quarter of Sections 9, 10, 15, and 16, Township 7 North, Range 2 West; WRIA 25, Grays-Elochoman Watershed.

AUTHORITIES:

In exercising authority under 33 U.S.C. § 1341, RCW 90.48.120, and RCW 90.48.260, Ecology has examined this application pursuant to the following:

1. Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. §1311, 1312, 1313, 1316, and 1317 (FWPCA § 301, 302, 303, 306 and 307);
2. Conformance with the state water quality standards contained in Chapter 173-201A WAC and authorized by 33 U.S.C. §1313 and by Chapter 90.48 RCW, and with other applicable state laws; and
3. Conformance with the provision of using all known, available and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.

WATER QUALITY CERTIFICATION CONDITIONS:

Through issuance of this Order, Ecology certifies that it has reasonable assurance that the activity as proposed and conditioned will be conducted in a manner that will meet the applicable water quality standards and other appropriate requirements of state law. In view of the foregoing and in accordance with 33 U.S.C. § 1341, RCW 90.48.120, RCW 90.48.260, Chapter 173-200 WAC and Chapter 173-201A WAC, water quality certification is granted to the Applicant subject to the conditions within this Order.

Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water standards (Chapter 173-200 WAC) or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup of surface waters, ground waters or sediments occurring as a result of project construction or operations.

A. General Conditions:

1. In this Order, the term "Applicant" shall mean the Longview Fibre Paper and Packaging, Inc. d.b.a. KapStone Kraft Paper Corporation and its agents, assignees and contractors.

2. For purposes of this Order, all notifications and submittals required by its conditions shall be sent to Ecology's Southwest Regional Office, Attn: Federal Permit Manager, SEA Program, PO Box 47775, Olympia, WA 98504-7775 or by e-mail (preferred) to Lori.kingsbury@ecy.wa.gov. The notifications and submittals shall include: Order No. **13791**, Corps Reference No. **NWS-2014-451**, the Applicant's name, the project contact, and the contact's phone number.
3. Work authorized by this Order is limited to the work described in the Joint Aquatic Resources Permit Application (JARPA) received by Ecology on July 7, 2016, unless otherwise authorized by Ecology. The Applicant will be out of compliance with this Order and must submit an updated JARPA if the information contained in the JARPA is voided by subsequent changes to the project not authorized by this Order.
4. Within 30 days of receipt of the updated information, Ecology will determine if the revised project requires a new public notice and Certification or if a modification to this Order is required.
5. The Applicant shall send (per A.2.) a copy of the final Section 404 Corps permit to Ecology's Federal Project Manager within two weeks of receiving it from the Corps.
6. This Order shall be rescinded if the U.S. Army Corps of Engineers does not issue an individual 404 and/or Section 10 permit for the project.
7. The Applicant shall keep copies of this Order on the job site and readily available for reference by Ecology personnel, the construction superintendent, construction managers and lead workers, and state and local government inspectors.
8. The Applicant shall provide access to the project site, all staging areas, and mitigation sites for site inspections, monitoring, necessary data collection, and/or to ensure that conditions of this Order are being met.
9. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines that further actions are necessary to implement the water quality laws of the state. Furthermore, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified or if additional conditions are necessary to further protect water quality.
10. In the event of changes or amendments to the state water quality, ground water quality, or sediment standards, or changes in or amendments to the state Water Pollution Control Act (RCW 90.48), or the federal Clean Water Act, Ecology will issue an administrative order to incorporate any such changes or amendments applicable to this project.
11. The Applicant shall ensure that all project engineers, contractors, and other workers at the project site with authority to direct work have read and understand relevant conditions of

this Order and all permits, approvals, and documents referenced in this Order. The Applicant shall provide Ecology's Federal Permit Manager a signed statement (see Attachment A for an example) from each signatory that they have read and understand the conditions of this Order and the above-referenced permits, plans, documents and approvals. These statements shall be provided to Ecology before construction begins.

12. This Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state (including wetlands) or related aquatic resources, except as specifically provided for in conditions of this Order.
13. Failure of any person or entity to comply with this Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce the terms of this Order.
14. This Order will automatically transfer to a new owner or operator if:
 - a. A written agreement between the Applicant and new owner or operator with the specific transfer date of the Order's obligations, coverage, and liability is submitted to Ecology per condition A.2.;
 - b. A copy of this Order is provided to the new owner or operator; and
 - c. If Ecology does not notify the new Applicant that this Order must be modified to complete the transfer.

B. Water Quality Conditions:

1. This Order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A-200(1)(e).
 - a. The area of mixing established for the project location is 300 feet downstream (down Current) of the in-water activity. Turbidity occurring outside of that zone that is more than 5 nephelometric turbidity units (NTU) over background when the background is 50 NTU or less, or a 10% increase in turbidity when the background turbidity is more than 50 NTU is a violation of the turbidity water quality standard.
 - b. Visible turbidity anywhere at the 300 foot point of compliance from the in-water dredge and/or disposal activity shall be considered to be an exceedance of the turbidity water quality standard.
2. Water Quality Sampling and Monitoring: The Applicant shall revise the *Water Quality Monitoring Plan (WQMP)*, *KapStone Maintenance Dredge Project, NWS-2014-451*, prepared by Flowing Solutions, dated 10/12/2016, in accordance with the comments made by Ecology via e-mail to the Applicant on October 21, 2016. A Final WQMP shall be submitted (per Condition A.2. of this Order) for review and approval at least 14 days prior to in-water work. Work shall not begin until Ecology approves the final WQMP.

3. Ecology must approve, in writing, any changes to the Final WQMP prior to implementing the changes.
4. Reporting: Results of the water quality monitoring shall be documented in the proposed data sheet and submitted weekly to Ecology's Federal Permit Manager during the identified in-water work activities per Condition A.2 of this Order.
5. Water Quality Exceedances: If water quality exceedances are detected outside of the point of compliance, work shall cease immediately, and the Applicant or the contractor shall assess the cause of the water quality problem and take immediate action to stop, contain, and correct the problem and prevent further water quality exceedances. If an exceedance occurs, the Applicant shall follow the notification procedures outlined below.
6. Notification of exceedances: Notification of exceedances that are detected through water quality sampling shall be made to Ecology **within 24 hours of occurrence**. Notification shall be made with reference to **Order No. 13791**, Attn: Federal Permit Manager, by telephone at (360) 407-6926, or by e-mail at lori.kingsbury@ecy.wa.gov. The Applicant shall, at a minimum, provide Ecology with the following information:
 - a. A description of the nature, extent, and cause of the exceedance.
 - b. The period of non-compliance, including exact dates, duration, and times and/or the anticipated time when the project will return to compliance.
 - c. The steps taken, or to be taken, to reduce, eliminate, and prevent recurrence of the non-compliance.
 - d. In addition, within five (5) days after notification of an exceedance, the Applicant shall submit a written report to Ecology that describes the nature of the exceedance, water quality monitoring results and location, photographs, and any other pertinent information.
7. Mitigation and/or additional monitoring may be required if water quality standards are not met.

C. Timing:

1. This Order shall remain in effect for a period of ten (10) years from the date of issuance. Continuing this project beyond the ten-year term of this Order will require the Applicant to apply for an extension prior to expiration of this Order.
2. All in water work shall be completed within the following work window:
October 1 – December 15
3. Should any in-water work need to be conducted outside of the above work windows, the Applicant shall submit a request for an extension of the work window to the agencies for approval.

D. Notifications:

1. Written notification via e-mail (per Condition A.2 of this Order) shall be made to Ecology's Southwest Regional Office Federal Permit Manager for the following activities:
 - a. At least fourteen (14) days prior to the pre-dredge meeting;
 - b. At least ten (10) days prior to conducting initial in-water work activities for each in-water work window unless otherwise authorized by Ecology;
 - c. Within ten (10) days after the completion of the in-water work;
 - d. Immediately following a violation of any conditions of this Order.

E. Dredging and Disposal:

1. The Applicant shall submit a *Dredge and Disposal Plan* for review and approval to Ecology's Federal Permit Manager (per Condition A.2 of this Order) at least fourteen (14) days prior to the pre-dredge meeting.
2. Prior to each dredging cycle, the Applicant shall contact the DMMP agencies to determine whether additional sediment testing is required. If additional testing is required, no dredging or disposal shall be conducted until the material has been tested and a suitability determination has been issued.
3. This area ranks low-moderate in potential for contamination and the recency determination extends until January of 2019. If dredge activities are anticipated beyond this time period, contact the DMMO for a possible extension or to obtain a new Suitability Determination. No dredging may take place after January of 2019 until a Suitability Determination has been issued or an extension has been completed.
4. If a new Suitability Determination is issued, the Applicant shall follow the recommendations of the new Suitability Determination.
5. All dredging will be conducted using a crane barge and a clamshell bucket. Use of any other type of dredge requires pre-approval from Ecology.
6. The barge shall not be allowed to ground-out or rest on the substrate or be anchored over vegetated shallows.
7. Dredging operations shall be conducted in a manner that minimizes the disturbance or siltation of adjacent waters and prevents the accidental discharge of petroleum products, chemicals or other toxic or deleterious substances into waters of the State.
8. The Applicant shall have a boat available on site at all times during dredging operations to retrieve any debris that enters the water.
9. The Dredge operator shall pause the bucket at the surface, after its ascent through the water column, to minimize turbidity by allowing free water to drain from the bucket prior to swinging the bucket to the barge.

10. The barge shall not be overfilled to the point where dredge material overtops the sidewalls.
11. Caution shall be used when placing material from the bucket into the barge to limit splash and prevent spillage.
12. All dredged material approved for open-water disposal will be taken to the flow-lane disposal location designated by the Portland District Corps of Engineers.
13. Dredged material will be loaded onto a barge for transport to the flow lane disposal area. The dredged material will be off-loaded with a clamshell bucket placed near the bottom and released or a split-hull (bottom-dump) barge may also be used. Use of any other type of disposal method or location requires pre-approval by Ecology.
14. For material being taken to open water disposal sites, all debris (larger than 2 feet in any dimension) shall be removed from the dredged sediment prior to disposal. Similar sized debris found floating in the dredging or disposal area shall also be removed.
15. Dredged material shall be spread over the disposal area and shall not be stockpiled on a temporary or permanent basis below the ordinary high water line.

F. Mitigation

1. The Applicant will plant up to 300 willows along a 500 square foot area on their property adjacent to the access channel and place three pieces of large woody material on the opposite bank of the channel.

G. Emergency/Contingency Measures:

1. The Applicant shall develop a spill prevention and containment plan for this project, and shall have spill cleanup materials and an emergency call list available on site.
2. Any work that is out of compliance with the provisions of this Order, or conditions causing distressed or dying fish, or any discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, is prohibited. If these occur, the Applicant or operator shall immediately take the following actions:
 - a. Cease operations that are causing the compliance problem.
 - b. Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
 - c. In the event of finding distressed or dying fish, the applicant shall collect fish specimens and water samples in the affected area within the first hour of the event. These samples shall be held in refrigeration or on ice until the applicant is instructed by Ecology on what to do with them. Ecology may require analyses of these samples before allowing the work to resume.
 - d. In the event of a discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, containment and cleanup efforts shall

- begin immediately and be completed as soon as possible, taking precedence over normal work. Cleanup shall include proper disposal of any spilled material and used cleanup materials.
- e. Immediately notify Ecology's 24-Hour Spill Response Team at 1-800-258-5990, **and** within 24 hours of spills or other events Ecology's Federal Permit Manager at (360) 407-6926.
 - f. Submit a detailed written report to Ecology within five (5) days that describes the nature of the event, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of any samples taken, and any other pertinent information.
3. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters, including wetlands.
 4. If at any time during work the proponent finds buried chemical containers, such as drums, or any unusual conditions indicating disposal of chemicals, the proponent shall immediately notify Ecology using the above phone numbers.

YOUR RIGHT TO APPEAL

You have a right to appeal this Order to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do all of the following within 30 days of the date of receipt of this Order:

- File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503 Pollution Control Hearings Board 1111 Israel RD SW STE 301 Tumwater, WA 98501	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608 Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

CONTACT INFORMATION

Please direct all questions about this Order to:

Lori Kingsbury, Federal Permit Manager
Department of Ecology
Southwest Regional Office
P.O. Box 47775
Lacey, WA 98504-7775
Lori.Kingsbury@ecy.wa.gov

MORE INFORMATION

- **Pollution Control Hearings Board Website**
www.eho.wa.gov/Boards_PCHB.aspx
- **Chapter 43.21B RCW - Environmental and Land Use Hearings Office – Pollution Control Hearings Board**
<http://apps.leg.wa.gov/RCW/default.aspx?cite=43.21B>
- **Chapter 371-08 WAC – Practice and Procedure**
<http://apps.leg.wa.gov/WAC/default.aspx?cite=371-08>
- **Chapter 34.05 RCW – Administrative Procedure Act**
<http://apps.leg.wa.gov/RCW/default.aspx?cite=34.05>
- **Chapter 90.48 RCW – Water Pollution Control**
<http://apps.leg.wa.gov/RCW/default.aspx?cite=90.48>

- **Chapter 173.204 WAC – Sediment Management Standards**
www.ecy.wa.gov/biblio/wac173204.html
- **Chapter 173-200 WAC – Water Quality Standards for Ground Waters of the State of Washington**
www.ecy.wa.gov/biblio/wac173200.html
- **Chapter 173-201A WAC – Water Quality Standards for Surface Waters of the State of Washington**
www.ecy.wa.gov/biblio/wac173201A.html

SIGNATURE



Brenden McFarland, Section Manager
Shorelands and Environmental Assistance Program
Headquarters Office - Department of Ecology
State of Washington

10 - 21 - 16

Date

ATTACHMENT A
Statement of Understanding of
Water Quality Certification Conditions

KapStone – Maintenance Dredging
Longview Fibre Paper and Packaging, Inc.
d.b.a. KapStone Kraft Paper Corporation
Water Quality Certification Order No. **13791**
and
Corps Reference No. **NWS-2014-451**

I state that I will be involved as an agent or contractor for Longview Fibre Paper and Packaging, Inc. (d.b.a. KapStone Kraft Paper Corporation) in the Maintenance Dredging project located within the Columbia River between River Mile (RM) 67.5 – 68.0 and within an existing moorage basin that was historically known as the Cowlitz River Channel, Longview, Cowlitz County, Washington. I further state that I have read and understand the conditions of Washington Department of Ecology Water Quality Certification Order No. **13791** and all permits, plans, documents, and approvals associated with the project referenced in this order.

Signature

Date

Print Name

Company

Title

